

**THE HON'BLE MR. JUSTICE
GODA RAGHURAM**

W.P.No. 16870 of 2005

Monday, the 01st day of August, 2005

Between:

Sri Ramakrishna Gurukula Vidyala,
Rep., by its Correspondent P.C.V. Prasada Rao,
Mahanandi, Kurnoo district.

Petitioner

And

The Commissioner of Endowment, Tilak Road, Abids,
Hyderabad and another.

Respondents.

Oral order:-

The petitioner claims to have been a lessee of Ac.3-00 of land belonging to Sri Mahanandeeswara Swamy Devasthanam, Mahanandi, Kurnool district and another shed, which are claimed to have been leased to the petitioner nearly three decades ago. Admittedly, the petitioner's lease in respect of the two extents of property expired on 31-12-2004 and 01-04-2004 respectively. The petitioner states to have made a representation to the 1st respondent for renewal of the lease, on an enhanced lease amount offered by the petitioner. The petitioner is running an educational institution in the above extents of lands, which he occupies by virtue of the claimed lease, the last of which expired on 31-12-2004. The petitioner has not shown any statutory provision, which obligates the respondents to grant renewal of lease on the determination of the earlier lease. Normatively, and in accordance with the statutory rules, on the expiry of the lease period, the respondents, as administrators and trustees of endowment properties, are required to lease the properties of Devasthanams only on the basis of a public auction at which a competitive lease amount could be obtained.

Learned counsel for the petitioner, however, has sought to bring to the notice of this court certain circulars issued by the Commissioner of Endowments, under which discretion could be exercised for renewal of the lease on an enhanced rent. These circulars are not *proprio vigore* legal instruments, which need to be

recognized or implemented by this court. Such circulars at best administrative instructions which could structure the discretion of the authorities of the Endowments Department and even in that spheres are valid only if they are in conformity with the statutory provisions and the rules. Any circular issued either by the Government or by the Commissioner of Endowments, if not in conformity with the statutory environment, would be null, void and of no effect. In the circumstances, this court does not propose to consider those circulars.

On the above analysis, the relief claimed by the petitioner for a Mandamus to the respondents, in substance for a direction to renew the lease in favour of the petitioner for a further period of three years on enhancement of 33% of the rent presently paid, is a relief that is misconceived and cannot be granted. As at present nothing is shown or established by the petitioner that the petitioner is entitled for the renewal of the lease or that the respondents are obligated to consider an application for such renewal, as already stated. No relief can be granted to the petitioner in this writ petition.

Alternatively, petitioner states that he apprehends dispossession by the respondents and he contends that he cannot be dispossessed, except by following the due procedure for eviction of an encroacher, under Section 83 of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (Act No. 30 of 1987) (for short 'the Act'). No proceedings of the respondents have been placed for the consideration of this court, which support the apprehension of the petitioner that he is likely to be dispossessed, except in accordance with the procedure established by law. If the respondents seek to dispossess the petitioner without following the due procedure under Section 83 of the Act, the petitioner has a plenitude of remedies, before the competent court of civil jurisdiction or under any other provision under the Act, as applicable. Such a grievance of the petitioner, which is presently based on a mere apprehension, need not be considered in a proceeding under Article 226 of the Constitution of India.

For the aforesaid reasons, there are no merits in the writ petition. The writ petition is, accordingly, dismissed. No costs.

GODA RAGHURAM, J

Dated; 01-08-2005

Pvks/*